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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,965	12/27/2001	Steven R. Janda	8350.1722-00	1798
22852	7590	04/28/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			RUHL, DENNIS WILLIAM	
		ART UNIT	PAPER NUMBER	
		3629		

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/026,965	JANDA, STEVEN R.
	Examiner Dennis Ruhl	Art Unit 3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 February 2005.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

Applicant's response of 2/1/05 has been entered. The examiner will address applicant's remarks at the end of this office action.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,7,13,15-18,23,26,29,30, are rejected under 35 U.S.C. 102(e) as being anticipated by Ogilvie et al. (6344796).

For claims 1,13,16,26,29, Ogilvie discloses a method as claimed. Ogilvie discloses the sensing of the ID of a customer which is the act of the customer entering a code at the door/gate 16 of a 1<sup>st</sup> secure area 14. The claimed computer is controller 20. Upon entry of the code and verification by the computer of your identity and the fact that you are allowed entry into the facility the gate will open. The plurality of second secure areas are the bins 12 that house various goods/items for the customer. The goods/item can be anything. To gain access to the item in one of the second secure areas 12, one must enter a code and the controller will grant access if you are the individual that has been assigned to the respective bin (another ID check). The language "to be rented by a customer" or "to be purchased" is taken as the intended use of the item and defines nothing further to the claimed invention.

For claim 16, in addition to that discussed above, the recitation that the status information is "about operation of the piece of equipment" is non-functional descriptive material that does not serve as a limitation. This recitation is only taken as the ability of the computer to record data, which the computer of Ogilvie does. The system of Ogilvie will record the fact that a given item has been removed from one of the second secure areas, and this satisfies the limitation of "status information". Status information is a broad term and can mean just about any kind of data relating to the item removed.

For claim 7, Ogilvie discloses that a customer may drop off items into the 2<sup>nd</sup> secure areas for pick up by another at a later time. If the customer so desired, they could return the item removed from the 2<sup>nd</sup> area as claimed. The customer is permitted to return an item as claimed.

For claim 15, the customer ID indicates that the customer is a member of an approved group. The approved group is the shipping company and their employees. They are a member of a group of people that are approved to use the facility and the storage bins. The secure area includes items that are available to the group (shipping company) as claimed.

For claims 17,18,23,30, Ogilvie discloses in column 4, lines 45-53 that a bar code scanner is used to log packages. This satisfies what is claimed.

3. Claims 8-10,31-34, are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al. (2002/0118111).

For claims 8,31,33,34, Brown discloses a method of managing rental equipment as claimed. Brown discloses sensing the ID of a customer (see paragraphs 23,25), providing access based on identify sensed (see paragraph 25), secure area 110, and sensing the ID of equipment to be removed (see paragraph 21,22,23). Also see paragraph 29. A computer is used to sense the customer ID and also to sense the RF tag of the equipment. Brown discloses rental equipment as claimed. The access controller is 240. The equipment ID sensor is disclosed as the RF tags and associated hardware. The claimed limitation of using a computer to sense an identifier on the piece of equipment is satisfied by the fact that the sensor senses the RF tag and the sensing of status information is taken as the actual reading of the data that the tag holds or it can be interpreted to be the sensing of other data such as the time of day the item was taken and whether or not the user is authorized to remove the item. During use of an RF tag two things happen, the first is that the RF tag itself is sensed (sensing an identifier), the second is that data is read from the tag (sensing the status information). The status information can be interpreted to be the identity of the device or any data that is sensed such as whether or not the user is an authorized user for that particular item. Applicant should take notice that the kind of data being sensed is taken as non-functional descriptive material that does not serve as a limitation because nothing is being done with the data. All that is recited is the sensing of status information (a broad

term) so this has been interpreted to be just the sensing of data with no weight being given to the kind of data being sensed. Brown satisfies what is claimed.

For claims 9,33,34, when the customer is authorized to remove the item (equipment), they are allowed to leave as claimed.

For claim 10, the system of Brown records what the customer removes from the secure area as well as whether or not the customer is authorized to remove the item. The data indicating whether or not a customer is authorized to remove an item can be fairly interpreted as "status information" as claimed because only authorized users are authorized to remove and use the equipment. The term "status information" is very broad (can be anything) and is also non-functional descriptive material as already explained.

For claim 32, Brown discloses that the sensors record what is returned in addition to what is removed.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,14,20,21,27, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogilvie et al. (6344796). Ogilvie discloses the invention substantially as claimed.

For claims 2,14,27, Ogilvie discloses the invention substantially as claimed. Not disclosed is the automated recording of what the customer removes from the 2<sup>nd</sup> secure area. The examiner considers this to read on the act of a business having security cameras that record the facility as is old and well known in the art. Many business' use security cameras to record their facility so that they act as a deterrent to theft or vandalism and so that if something happens at the facility they have a record of what happened. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Ogilvie with security cameras that would automatically record the facility for security purposes. The cameras would be recording what was removed from the facility as claimed.

For claims 20,21, not disclosed is that there is a sensor that records an item as being returned to the second secure area. Ogilvie discloses that upon pickup of an item a bar code scanner is used to log the removal of the item. See column 4, lines 45-53. Nothing is disclosed about this happening when an item is initially dropped off. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the dropping off person use a bar code scanner to log the arrival of the package as claimed. If the bar code scanning is used upon pickup to track the item, it is obvious to also use this method to track the drop off of the item.

6. Claims 11,12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002011811). Brown discloses the invention substantially as claimed.

For claims 11,12, Brown discloses that video cameras can be used to monitor the customer and the items they remove from the store. To do this the recording device must inherently be started when a customer is present in the store (after ID has been checked). Not disclosed is that the recording will stop after a predetermined amount of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the video camera stop recording after a predetermined amount of time has elapsed after the customer has exited the store. There is no need to record the area when nobody is there. The recording must stop at some point and having it stop after a predetermined amount of time has elapsed is considered obvious.

DR  
4/25/05

7. Claims 1-3,5-7,16,17,20,22,26-28, are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002011811) in view of Moreno (20020035515). <sup>19</sup>

For claim 1,16,26, Brown discloses a method for the managing of rental equipment. Brown discloses a first secure area 110. The identity of a customer is sensed (see paragraphs 23,25) and access to the first secure area is then provided based on the sensed identity (if you are found to be authorized). The claimed computer is controller 180/230/240 that senses ID and allows access to the first secure area. Not disclosed is that the first secure area has a plurality of second secure areas and that a computer is used to selectively provide access to a second secure area that has been assigned to the customer. Brown discloses that the system and method can be used in rental stores where items are rented (video tapes, tools, etc.). It is very well known in the business of renting items that a customer can reserve a particular item in advance

and Brown discloses this fact in paragraph 30, "to reserve an object in inventory". Moreno discloses a system where a customer can request the delivery of a particular good from a vendor and the goods are placed in a secure locker where the good can be retrieved by the customer at their convenience. Moreno discusses the fact that many consumers are very busy and scheduling the pickup of a good during normal business hours may be difficult or impossible. See the background of the invention section where this is discussed. Moreno discloses that a bank of lockers are provided where the good is stored for the customer to then pick up at a later time convenient to their schedule. In the invention of Brown where the secure facility is a rental store, it is disclosed that one may reserve in advance. Reserved items are generally put aside for a customer and are not left out for others to take. To reserve an item means that it is put aside for the reserving customer. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Brown with second secure areas in the form of lockers as disclosed by Moreno where rental items that are reserved in advance for a particular customer are kept for the customer to pick up so that others do not take or misplace a reserved item.

For claims 2,17,20,27, Brown discloses in paragraphs 27 and 29 that the objects located in the secure area are monitored and the system records what is removed by a particular person. The objects have RFID tags that allow the system to monitor and track what is removed as claimed in an automated manner. The system also records what is returned as claimed.

For claims 3,28, when the customer reserves an item in advance the item reserved will inherently be associated with the reserving customer by a list that indicates who reserved what. Paragraph 28 discloses that the removal of items "may be authorized or not" and this inherently requires the determination that the object being removed is allowed by the removing customer. When a customer has reserved an item in advance the system will log the fact that the customer has removed that particular item and if they take another item that was not reserved in advance, the system will also log the fact that the 2<sup>nd</sup> item was removed. Tracking the 2<sup>nd</sup> item is a recording of a difference between what was on the list and what was actually removed.

For claims 5,6, Brown discloses that video cameras can be used to monitor the customer and the items they remove from the store. To do this the recording device must inherently be started when a customer is present in the store (after ID has been checked). Not disclosed is that the recording will stop after a predetermined amount of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the video camera stop recording after a predetermined amount of time has elapsed after the customer has exited the store. There is no need to record the area when nobody is there. The recording must stop at some point and having it stop after a predetermined amount of time has elapsed is considered obvious.

For claim 7, the customer is permitted to return an item as claimed.

For claims 19,22, Brown discloses that the location of articles for rent can be monitored. See paragraph 22. Not disclosed is the use of a GPS based sensor. It would have been obvious to one of ordinary skill in the art at the time the invention was

made to use a GPS based sensor so that the location of the article can be more accurately known. Brown already discloses a system that can locate where an article is (its location), so using GPS location technology is considered obvious because GPS technology is the most accurate manner available for determining location.

8. Claims 24,25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002011811) in view of Muhme (5886634). Brown discloses the invention substantially as claimed (see the 102 rejection).

For claims 24,25, not disclosed is that the computer is directed to allow the customer to remove an item as claimed if the customer corresponds to the item being removed (or alternatively, that the customer is prevented from leaving if the item they are attempting to remove does not match the list for that customer). Brown recognizes the situation where a customer is attempting to remove an item that they are not authorized to remove. Muhme discloses a system for tracking items and personnel where it is disclosed that if a person is not authorized to remove a particular item from a secure area, the exit may be locked to prevent their exiting with the unauthorized item. If they are authorized to remove the item they are allowed to leave. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the exiting of a customer with an authorized object. This would prevent a mistake from happening where a reserved item for rent is accidentally given to a customer who has not reserved that item. Brown recognizes that one may attempt to remove an item without authorization so to prevent exiting with the item when removal is not authorized

is considered obvious and allowing them to leave with the correct item is also considered obvious.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al. (2002011811) in view of Moreno (20020035515) further in view of Muhme (5886634). Brown in view of Moreno disclose the invention substantially as claimed. Not disclosed is that the customer is prevented from leaving if the item they are attempting to remove does not match the list for that customer. Brown recognizes the situation where a customer is attempting to remove an item that they are not authorized to remove. Muhme discloses a system for tracking items and personnel where it is disclosed that if a person is not authorized to remove a particular item from a secure area, the exit may be locked to prevent their exiting with the unauthorized item. It would have been obvious to one of ordinary skill in the art at the time the invention was made to prevent the exiting of a customer with an unauthorized object. This would prevent a mistake from happening where a reserved item for rent is accidentally given to a customer who has not reserved that item. Brown recognizes that one may attempt to remove an item without authorization so to prevent exiting with the item when removal is not authorized is considered obvious.

10. Applicant's arguments filed 2/1/05 have been fully considered but they are not persuasive. Many of the arguments presented are deemed moot based on a new grounds of rejection to the claims. With respect to Brown and the argument that "status

information" is not being sensed in Brown, the examiner has addressed this in the prior art rejection of record and feels no further comments are necessary. This applies to many of the claims. With respect to claim 34, the examiner feels that because the locking mechanism of Brown allows a customer to leave the secure area, this is a teaching of allowing one to leave as claimed. If a customer has a reservation for an item and enters the secure area to retrieve that item, the door is not locked by the system and they are allowed to leave. This reads on what is claimed.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Ruhl whose telephone number is 571-272-6808. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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PRIMARY EXAMINER